

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X

PHILIP SCHILLER,

Index Number:
Date Purchased:

Plaintiff,

Plaintiff designates
BRONX
County as the place of trial.

-against-

SALANTER AKIBA RIVERDALE ACADEMY,
JOHN AND JANE DOE 1-30, MEMBERS OF
THE BOARD OF TRUSTEES OF SALANTER
AKIBA RIVERDALE ACADEMY, in their official
and individual capacities, whose identities are
presently unknown to Plaintiff,

The basis of the venue is
Defendants' place of
business.

Defendants.

SUMMONS

-----X

To the above named Defendant(s)

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
September 3, 2019



MICHAEL G. DOWD
600 Third Avenue, 15th Floor
New York, NY 10016
(212) 751-1640

SWEENEY, REICH & BOLZ, LLP
By: Gerard J. Sweeney, Esq.
1981 Marcus Avenue, Suite 200
Lake Success, NY 11042
(718) 459-9000

Attorneys for Plaintiff

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X

PHILIP SCHILLER,

Index Number:
Date Filed:

Plaintiff,

-against-

VERIFIED COMPLAINT

SALANTER AKIBA RIVERDALE ACADEMY,
JOHN AND JANE DOE 1-30, MEMBERS OF
THE BOARD OF TRUSTEES OF SALANTER
AKIBA RIVERDALE ACADEMY, in their official
and individual capacities, whose identities are
presently unknown to Plaintiff,

Defendants.

-----X

Plaintiff, Philip Schiller, complaining of Defendants, herein alleges the following:

JURISDICTION AND VENUE

1. This action is timely commenced pursuant to the New York State Child Victims Act, dated February 14, 2019, and CPLR § 214-g.
2. This Court has jurisdiction pursuant to CPLR § 301 as Defendants' principal place of business is in New York and because much of the unlawful conduct complained of herein occurred in New York.
3. Venue is proper pursuant to CPLR § 503 because Bronx County is the principal place of business of Defendants. In addition, many of the events giving rise to this action occurred in Bronx County.

AS AND FOR THE FIRST CAUSE OF ACTION:

NEGLIGENT SUPERVISION

4. The Plaintiff, Philip Schiller (hereinafter "Plaintiff") was born on September 18, 1964 and resides in Westchester County. Plaintiff attended SALANTER AKIBA RIVERDALE ACADEMY from 1973 through 1978.
5. Defendant SALANTER AKIBA RIVERDALE ACADEMY (hereinafter "SAR") is at all material times, a private coeducational elementary and middle school located in Bronx County.
6. JOHN AND JANE DOE 1-30, whose names are presently unknown, were members of SAR's Board of Trustees during all material times herein. Upon information and belief, the BOARD OF TRUSTEES is responsible for the operation of SAR, including fundraising and hiring of their administrators.
7. Upon information and belief, Stanley Rosenfeld (hereinafter "Rosenfeld") was hired by SAR as an administrator and a teacher in the 1970s and 1980s.
8. Upon information and belief Rosenfeld met Plaintiff through his employment at Westchester Day School in Mamaroneck, New York while Plaintiff was a student there. Plaintiff had further contact with Rosenfeld through his employment at SAR and acting within the course of scope of his authority as an SAR administrator and teacher. Rosenfeld continued acting as an employee and agent of SAR through the entire period he sexually abused Plaintiff.
9. Upon further information and belief, in 2001 Rosenfeld pled no contest in the Rhode Island Superior Court to two (2) counts of Second-Degree Child

Molestation stemming from the sexual abuse of a 12-year-old boy over the course of six months.

10. Upon information and belief, in January of 2018, attorneys for SAR hired T&M Protection Resources (hereinafter “T&M”) to conduct an investigation into allegations of sexual abuse committed by Rosenfeld.
11. Upon information and belief, T&M completed their investigation into Rosenfeld and produced a report dated October 4, 2018 summarizing that investigation. A copy of said report is attached as Exhibit A.
12. Upon information and belief, during the investigation T&M received firsthand reports of sexual abuse by Rosenfeld from twelve former SAR students and one non-SAR student.
13. Upon information and belief, in their report T&M stated the following: “The evidence also demonstrates that Rosenfeld’s sexual misconduct became known to Rabbi Sheldon Schwartz (“Rabbi Schwartz”), then an SAR faculty member, when two former students separately disclosed to him that Rosenfeld had inappropriately touched them. The evidence further demonstrates that Rosenfeld’s sexual misconduct also became known to former SAR Principal Rabbi Sheldon Chwat (“Rabbi Chwat”) when a former faculty member reported to him that she observed Rosenfeld touch a boy’s groin area in an office within the school.” (Exhibit A, 4)
14. Upon information and belief, during the investigation, T&M received reports from former students who had “their genitals fondled over their clothing in public areas within the School, such as the learning area and outside the teacher’s room,

as well as being cornered elsewhere within the building after which Rosenfeld pressed his erect penis against them." (Exhibit A, 11)

15. Upon information and belief, during T&M's interview with Rosenfeld he admitted to touching students inappropriately "wherever [he] worked with them." (Exhibit A, 12) Further, when investigators asked Rosenfeld if anyone at SAR knew he was sexually abusing children he responded, "I don't know if they knew or not. Sometimes it was very possible to see me do that because I wasn't hiding that." (Exhibit A, 12)
16. Upon information and belief, during T&M's investigation, a former senior member of SAR stated that when Rosenfeld left SAR in or around 1977, he was told by Rabbi Chwat that Rosenfeld was "being let go or leaving" SAR and that Rosenfeld was "the kind of person that has a proclivity or interest in students" and "not the person who should be with kids full time." (Exhibit A, 14)
17. Upon information and belief, SAR sanctioned and otherwise facilitated and condoned the Shabbat sleepovers at Rosenfeld's home.
18. Upon information and belief, Rosenfeld, an SAR administrator and agent, used his position to induce students to come to his home for Shabbat, in order to gain access to them for the purpose of sexually abusing Plaintiff and other similarly situated students.
19. Upon information and belief, at no time did any of the Defendants or their agents report Rosenfeld to lawful civil authorities.
20. Plaintiff first met Rosenfeld in or around the early 1970s. Rosenfeld's abuse of Plaintiff occurred in or around the spring of 1977. The sexual abuse included, but

was not limited to Rosenfeld staring at Plaintiff's genitals for extended periods of time, Rosenfeld fondling and massaging Plaintiff's body, including his thighs and back, Rosenfeld removing his clothing and exposing his erect penis to Plaintiff, Rosenfeld encouraging Plaintiff to masturbate, and Rosenfeld forcing Plaintiff to watch him masturbate to the point of ejaculation while he stared at Plaintiff. The abuse occurred at Rosenfeld's home when SAR authorized and otherwise directly facilitated Plaintiff and another classmate to stay with Rosenfeld for Shabbat in Rosenfeld's home.

21. The morning after the abuse, Plaintiff and his classmate, who was present and experienced the same abuse, ran away from Rosenfeld's home and reported the abuse to their parents. The following Monday, Plaintiff's parents, along with his classmate's parents, reported the abuse to SAR. Plaintiff and his classmate reported the abuse to then Assistant Principal Rabbi Yonah Fuld.
22. At all material times, Plaintiff was aware of no SAR rules, regulations or policies concerning or addressing sexual abuse, or sexual misconduct of SAR students, such as Plaintiff, by school administrators and/or teachers such as Rosenfeld.
23. During all material times, Plaintiff received no training or information in any form, including but not limited to, classroom instruction or oral presentation, or through written document on how to deal with sexual misconduct, sexual abuse and sexual boundary violations by SAR administrators and/or teachers such as Rosenfeld.
24. Upon information and belief, during all material times herein, when Plaintiff was enrolled in school and communicating and otherwise interacting with Rosenfeld, Plaintiff was entrusted by his parents to the care of the Defendants and during

such periods, the Defendants were acting in the capacity of *in loco parentis* because Defendants assumed custody and control over him as a minor child and as a student at the school.

25. Upon information and belief, Rosenfeld used his position of trust and the authority vested in him by the Defendants for the purpose of sexually abusing Plaintiff.
26. Upon information and belief, the sexual abuse of Plaintiff by Rosenfeld was foreseeable.
27. Upon information and belief, at all material times, Defendants had the duty to exercise the same degree of care and supervision over the students, including Plaintiff, under their control as a reasonably prudent parent would have exercised under the same circumstances. This means that Defendants assumed a duty of care to protect the safety and welfare of Plaintiff as a student at SAR. At all material times, Defendants owed a duty to Plaintiff to provide a safe and nurturing educational environment, where he would be protected from administrators and staff like Rosenfeld who were under the employment and control of the Defendants.
28. Upon information and belief, during Rosenfeld's employment by SAR and while Plaintiff was a student in SAR's care, Defendants failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.
29. During all material times, SAR owed a special duty to Plaintiff that required SAR to take reasonable steps to anticipate such behavior from its employees like Rosenfeld, which threatened the safety of students, including Plaintiff.

30. At all material times, Defendants had a duty to properly supervise Rosenfeld as their employee and because of their duty of care to Plaintiff.
31. At all material times, Plaintiff reposed his trust and confidence as a student and minor individual, in Defendants who occupied a superior position of influence and authority over Plaintiff to provide Plaintiff with a safe and secure educational environment.
32. Upon information and belief, at all material times, Defendants knew or should have known of Rosenfeld's propensity to sexually abuse minor students.
33. Upon information and belief, the Defendants negligently failed to adequately implement a reasonable or effective supervisory system, plan, protocol or procedure for supervising personnel so as to prevent sexually inappropriate and sexually abusive behavior by SAR employees.
34. Upon information and belief, the failure to supervise includes, but is not limited to Defendants allowing and otherwise authorizing and inviting students to spend the night at Rosenfeld's apartment and Rosenfeld having unsupervised closed-door meetings with students in his office.
35. Upon information and belief, the injuries to Plaintiff resulted from Defendants' failure to provide Plaintiff the supervision of a parent of ordinary prudence under the same circumstances.
36. Upon information and belief, the injuries to Plaintiff were a foreseeable consequence of Defendants' negligent failure to supervise Rosenfeld and Plaintiff. Said injuries were caused by or contributed to by the carelessness, recklessness, and grossly negligent conduct of Defendants, their agents, servants and/or

employees, in failing to properly and adequately supervise the conduct of Rosenfeld as it related to the Plaintiff.

37. Defendants were wanton, reckless, officially tolerant and deliberately indifferent to the sexual abuse of Plaintiff by Rosenfeld.
38. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, depression, humiliation, embarrassment, fright, anger, anxiety, and loss of educational opportunity and has been caused to suffer pain and mental anguish, emotional and psychological damage as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Plaintiff has become and will continue to be obligated to expend sums of money for medical expenses.
39. That by reason of the foregoing, Defendants are liable to Plaintiff for punitive and exemplary damages.
40. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7).
41. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AND AS FOR A SECOND CAUSE OF ACTION:

NEGLIGENT RETENTION

42. Plaintiff repeats and realleges the above paragraphs of this Complaint as if fully set forth herein.

43. Upon information and belief, as more fully alleged above, Defendants' duty of care to Plaintiff included a duty not to retain an employee like Rosenfeld who would use his position of authority and influence to harm students such as Plaintiff.
44. Upon information and belief, Defendants knew or should have known that Rosenfeld was sexually abusing Plaintiff and/or knew or should have known of his propensity to sexually abuse minor students with whom he came in contact.
45. When Plaintiff was in their care, said Defendants failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.
46. Defendants were wanton, reckless, officially tolerant and deliberately indifferent to the sexual abuse of Plaintiff by Rosenfeld.
47. Defendants are liable to Plaintiff as a result of their recklessness, official tolerance and deliberate indifference to the harm caused to Plaintiff by Rosenfeld.
48. By reason of the foregoing, Plaintiff has sustained physical and psychological injuries, including but not limited to, severe emotional distress, depression, humiliation, embarrassment, fright, anger, anxiety, and loss of educational opportunity and has been caused to suffer pain and mental anguish, emotional and psychological damage as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Plaintiff has become and will continue to be obligated to expend sums of money for medical expenses.

49. That by reason of the foregoing, Defendants are liable to Plaintiff for punitive and exemplary damages.
50. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 and by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7).
51. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A THIRD CAUSE OF ACTION:

NEGLIGENT FAILURE TO TRAIN TEACHERS AND ADMINISTRATORS
RELATED TO SEXUAL ABUSE AND TRAIN STUDENTS RELATING TO SEXUAL

ABUSE

52. Plaintiff repeats and realleges the above paragraphs of this Complaint as if fully set forth herein.
53. Upon information and belief, Defendants, their agents, servants and employees owed a duty of care to Plaintiff as more fully alleged above. That duty included the duty to train and educate employees and administrators and establish adequate and effective policies and procedures calculated to detect, prevent and address inappropriate employee behavior and conduct, including employee-student boundary violations, sexually inappropriate employee behavior and conduct, and the sexual abuse of students by employees for the purpose of preventing the sexual abuse of students like Plaintiff.
54. Upon information and belief, Defendants did not establish effective training and education programs, policies and procedures for their administrators, teachers and

employees calculated to detect, prevent and address the problem of the inappropriate employee behavior and conduct and the sexual abuse of students by employees.

55. Upon information and belief, in failing to establish such training and education programs, policies and procedures for employees and administrators, Defendants failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.
56. Upon information and belief, Defendants had a duty to train and educate students including Plaintiff on inappropriate employee behavior and conduct, including employee-student boundary violations, sexually inappropriate employee behavior and conduct, and the sexual abuse of students by employees and to establish effective policies and procedures to address said problems.
57. Upon information and belief, Defendants did not train and educate Plaintiff on the problem of inappropriate employee behavior and conduct including employee-student boundary violations, sexually inappropriate employee behavior and conduct and the sexual abuse of students by employees and did not establish effective policies and procedures to address said problems.
58. Upon information and belief, in failing to establish such training and education programs, policies and procedures for students like Plaintiff, Defendants failed to exercise the degree of care that a reasonably prudent parent would have exercised under similar circumstances.
59. Upon information and belief, Defendants are liable to the Plaintiff, as the result of their negligent failure to establish effective training and education programs,

policies and procedures for their administrators, teachers and employees calculated to detect and prevent employee behavior and conduct, including employee-student boundary violations, sexually inappropriate employee behavior and conduct and the sexual abuse of students by employees. Defendants are also liable to Plaintiff for their failure to train and educate Plaintiff as a student on the problem of inappropriate employee behavior and conduct including employee-student boundary violations, sexually inappropriate behavior and conduct and the sexual abuse of students by employees and to establish effective policies and procedures to address said problems.

60. Defendants, their agents, servants and employees were negligent, careless and reckless and acted willfully, wantonly and were grossly negligent in failing to establish adequate and effective professional training and education programs and procedures for their employees calculated to prevent abuse of minors in their care.
61. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, depression, humiliation, embarrassment, fright, anger, anxiety and loss of educational opportunity and has been caused to suffer pain and mental anguish, emotional and psychological damage as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Plaintiff has become and will continue to be obligated to expend sums of money for medical expenses.
62. That by reason of the foregoing, Defendants are liable to Plaintiff for punitive and exemplary damages.

63. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(7) and 1602(11).
64. That the amounts of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

AS AND FOR A FOURTH CAUSE OF ACTION:

NEGLIGENCE FAILURE TO PROVIDE A SAFE AND SECURE ENVIRONMENT

65. Plaintiff repeats and realleges the above paragraphs of this Complaint as if fully set forth herein.
66. During all material times, SAR owed a special duty to Plaintiff as a student. This special duty required SAR to take reasonable steps to anticipate such threats from its employees like Rosenfeld which threatened the safety of Plaintiff.
67. Upon information and belief, by virtue of both their duty of care to Plaintiff and the positions of authority and influence they exercised over him, Defendants had a duty to Plaintiff to provide him a reasonably safe and secure environment at SAR.
68. Upon information and belief, Defendants failed to provide a reasonably safe environment to Plaintiff by failing to exercise the degree of care that a reasonably prudent person would have exercised under similar circumstances.
69. As a result, Defendants are liable to Plaintiff for their negligent failure to provide a reasonably safe and secure environment.
70. By reason of the foregoing, Plaintiff sustained physical and psychological injuries, including but not limited to, severe emotional distress, depression,

humiliation, embarrassment, fright, anger, anxiety, and loss of educational opportunity and has been caused to suffer pain and mental anguish, emotional and psychological damage as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature, and Plaintiff has become and will continue to be obligated to expend sums of money for medical expenses.

71. That by the reason of the foregoing, Defendants are liable to Plaintiff for punitive and exemplary damages.
72. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to CPLR 1602(7) and 1602(11).
73. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

WHEREFORE, Plaintiff demands judgment against the Defendants, together with compensatory and punitive damages, and the interests, costs and disbursements pursuant to the causes of action herein.

Dated: New York, New York
September 3, 2019



MICHAEL G. DOWD
600 Third Avenue, 15th Floor
New York, NY 10016
(212) 751-1640

SWEENEY, REICH & BOLZ, LLP
By: Gerard J. Sweeney, Esq.
1981 Marcus Avenue, Suite 200
Lake Success, NY 11042
(718) 459-9000

Attorneys for Plaintiff

VERIFICATION BY ATTORNEY

MICHAEL G. DOWD, an attorney being duly admitted before the courts of the State of New York, hereby affirms the following under penalties of perjury:

That he is the attorney for the Plaintiff in the above-entitled action with an office located at 600 Third Ave, New York, New York; that he has read the foregoing VERIFIED COMPLAINT and knows the contents thereof; that the same is true to his knowledge, except as to the matters stated to be alleged upon information and belief, and that as to those matters he believes them to be true.

That the reason why this verification is made by deponent instead of Plaintiff is because Plaintiff is not within the County of New York where deponent has his office. Deponent further says that the grounds of his belief as to all matters in the VERIFIED COMPLAINT not stated to be upon his knowledge are based upon conversations with the Plaintiff and other writings relevant to this action.

Dated: New York, New York
September 3, 2019



MICHAEL G. DOWD
Attorney for Plaintiff
600 Third Avenue, 15th Floor
New York, NY 10016
(212) 751-1640